

§ 3400.20

24 CFR Ch. XX (4–1–12 Edition)

and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Subpart A—General

§ 3400.20 Scope of this subpart.

This subpart provides the definitions applicable to this part, and other general requirements applicable to this part.

§ 3400.23 Definitions.

Terms that are defined in the SAFE Act and used in this part have the same meaning as in the SAFE Act, unless otherwise provided in this section.

Administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

American Association of Residential Mortgage Regulators is the national association of executives and employees of the various states who are charged with the responsibility for administration and regulation of residential mortgage lending, servicing, and brokering, and dedicated to the goals described at <http://www.aarmr.org>.

Application means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the borrower or prospective borrower that is customary or necessary in a decision on whether to make such an offer.

Clerical or support duties:

(1) Include:

(i) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms; and

(2) Does not include:

(i) Taking a residential mortgage loan application; or

(ii) Offering or negotiating terms of a residential mortgage loan.

Conference of State Bank Supervisors (CSBS) is the national organization composed of state bank supervisors dedicated to maintaining the state banking system and state regulation of financial services in accordance with the CSBS statement of principles described at <http://www.csbs.org>.

Employee:

(1) Subject to paragraph (2) of this definition, means:

(i) An individual:

(A) Whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and

(B) Whose compensation for Federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

(2) Has such binding definition as may be issued by the Federal banking agencies in connection with their implementation of their responsibilities under the SAFE Act.

Farm Credit Administration means the independent Federal agency, authorized by the Farm Credit Act of 1971, to examine and regulate the Farm Credit System.

Federal banking agencies means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

For compensation or gain. See § 3400.103(c)(2)(ii).

Independent contractor means an individual who performs his or her duties other than at the direction of and subject to the supervision and instruction of an individual who is licensed and registered in accordance with § 3400.103(a), or is not required to be licensed, in accordance with § 3400.103(e)(5), (e)(6), or (e)(7).

Loan originator. See § 3400.103.

Loan processor or underwriter, for purposes of this part, means an individual who, with respect to the origination of a residential mortgage loan, performs